

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESALE PRICE
LITIGATION

) MDL No.1456

) Master File No. 01-CV-12257-PBS
) Subcategory Case No. 06-11337-PBS

THIS DOCUMENT RELATES TO:
United States of America ex rel. Ven-A-Care of
the Florida Keys, Inc., et al. v. Boehringer
Ingelheim Corporation, et al., Civil Action No.
07-10248-PBS

) Judge Patti B. Saris

) Magistrate Judge Marianne B. Bowler

**ROXANE’S EXPEDITED MOTION FOR LEAVE TO DEPOSE
CAROLYN HELTON AND ROBIN KREUSH STONE**

Boehringer Ingelheim Roxane, Inc. and Roxane Laboratories, Inc. (collectively “Roxane”) respectfully move this Court for expedited relief under Federal Rules of Civil Procedure 26, 37, and 56, and pursuant to the Court’s inherent power to oversee discovery, to depose by August 20, 2009 two witnesses who submitted declarations outlining new and contradictory facts in support of the Government’s motion for summary judgment, or, in the alternative, leave to delay its response to the Government’s Novaplast arguments until after such depositions have been completed in the event that the depositions occur after August 20, 2009. The grounds supporting the requested relief are set forth in the accompanying Affidavit and Memorandum of Law.

Dated: July 29, 2009

Respectfully submitted,

/s/ Eric T. Gortner
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*On behalf of Defendants Boehringer Ingelheim
Corp., Boehringer Ingelheim Pharmaceuticals,
Inc., Boehringer Ingelheim Roxane, Inc., and
Roxane Laboratories, Inc.*

CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1(a)(2)

I hereby certify that counsel for Roxane has consulted in good faith with George Henderson III, counsel for the United States, concerning this action in an effort to resolve or narrow the issues in this motion. I further certify that the discussion with George Henderson III did not lead to a resolution or narrowing of the issues.

By: /s/ Eric T. Gortner

Eric. T. Gortner

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing was delivered to all counsel of record by electronic service pursuant to Paragraph 11 of the Case Management Order No. 2, by sending on July 29 2009, a copy to LexisNexis File and Serve for posting and notification to all parties.

By: /s/ Eric T. Gortner

Eric. T. Gortner